

ADM-11.17, "Employee Conduct," December 1, 2008

	SCDC POLICY/PROCEDURE
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NUMBER: ADM-11.17

TITLE:EMPLOYEE CONDUCT

ISSUE DATE: December 1, 2008

RESPONSIBLE AUTHORITY: DIVISION OF HUMAN RESOURCES

OPERATIONS MANUAL: ADMINISTRATION

SUPERSEDES: ADM-11.17 (December 1, 2005)

RELEVANT SCDC FORMS/SUPPLIES: 16-69, 16-90, 19-29A&B

ACA/CAC STANDARDS: 4-ACRS-3A-07,4-ACRS-7E-04, 4-ACRS-7E-07, 4-4048, 4-4056, 4-4069

STATE/FEDERAL STATUTES:(This list is not all inclusive.) Section 24-3-950, South Carolina Code of Laws, 1976, as amended; Section VII (707.02), South Carolina Office of Human Resources Regulations; Title VII of the 1964 Civil Rights Act; Article 7, Sections 8-13-700 through 8-13-795, Rules of Conduct

THE LANGUAGE USED IN THIS POLICY/PROCEDURE DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS POLICY/PROCEDURE DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENTS OF THIS POLICY/PROCEDURE, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

PURPOSE: To outline general guidelines regulating the conduct of Agency employees (to include nepotism and incompatible activity) governed and authorized under applicable state and federal laws and regulations and Agency directives.

POLICY STATEMENT: To promote the ethical, professional, and lawful conduct of all SCDC employees, the Agency will ensure that employees are aware of the applicable regulations, laws, and directives governing their conduct as it relates to their employment with the South Carolina Department of Corrections and with the state (to include, but not be limited to, prohibitions against nepotism and incompatible activity) and of the action that can or may be taken for violations of any of the same. (4-ACRS-3A-07, 4-ACRS-7E-04, 4-ACRS-7E-07,4-4048, 4-4056, 4-4069 )

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SPECIFIC PROCEDURES:

1. NOTIFICATION: Employees will be provided access to information pertaining to the rules, regulations, and statutes governing their conduct. Unless otherwise noted herein, information will be made generally accessible to all employees through publication of this policy/procedure and related Agency policies/procedures and post orders. The Agency reserves the privilege and/or right to discipline and/or to prosecute to the fullest extent of the law any employee deemed in violation of any rules and regulations either mandated by state or federal statutes or by Agency directives. See SCDC Policy/Procedure ADM-11.04, "Employee Corrective Action," for additional information. (4-ACRS-7E-07,4-4048)

## 2. NEPOTISM:

2.1 No immediate family member related by blood or marriage shall be employed (whether by hire, transfer, promotion, or demotion) at the same time under the following conditions:

- if one member would be under the supervision of another member of the family, or
- if such employment would result in an employee occupying a position having influence over the relative's employment, promotion, transfer, salary administration, or other related management or personnel matters.

2.2 No immediate family member of the Agency Director may be employed by the Agency, regardless of position, unless otherwise approved by the Governor of the State of South Carolina. No immediate family member of the Director - Office of Budget and Resource Management, Director of Health Services, Director of Programs and Services, General Counsel, Inspector General, or Division Director of Operations may be employed, regardless of position, unless otherwise approved by the Agency Director.

2.3 The Agency considers the potential employment of immediate family members on a case by case basis with safety, security, and employee morale as paramount. Any such new hires or other assignments must have the approval of the Division Director of Human Resources.

2.4 New or existing assignments of immediate family members within the same institution, division, or work area may cause employee or inmate relations problems. If reasonable evidence of such problems is found, then employees should be aware that involuntary transfer of one or both employees may be required. It will be the responsibility of the Warden, Division Director, or higher authority to identify such situations and to coordinate any transfers with the Division Director of Human Resources.

2.5 The Agency reserves the right to deny employment of individuals who, by virtue of their relationship (blood, marriage, other) to another employee or inmate, may pose a substantial risk to the Agency or its operation or its mission. (4-ACRS-3A-07, 4-4069)

3. STATE ETHICS ACT/RULES OF CONDUCT: To uphold compliance with South Carolina Ethics Commission Standards, no employee of the Agency will be authorized to engage in any other employment or activity deemed incompatible or inconsistent with his/her employment with the SCDC.

Incompatible/Inconsistent Activity refers to employment and conduct including, but not limited to, the following categories:

- use of the prestige or influence of the state, the Agency, or official position within the state or the Agency to obtain privileges or private gain or advantage;
- employment or participation in any activity of an illegal nature;
- employment or activity which would prevent an employee from doing his/her job in an efficient and capable manner;
- employment or activity that would prevent a prompt response to a call to report to duty in an emergency or when otherwise required to be present by his/her immediate supervisor or other higher authority;
- use of SCDC equipment, vehicles, computers, weapons, badges, or other identification for purposes other than officially assigned duties;
- use for private gain the time, facilities, equipment, or supplies of the state and/or the Agency; providing information deemed as confidential, either by Agency policies/procedures or by state or federal laws, to persons to whom the issuance of such information has not been authorized or for private gain or advantage;
- receiving or accepting money or other consideration from anyone other than the state for performance of an act which an employee would be required or expected to render in the regular course of his/her employment or as a part of his/her official duties as a state employee;
- receiving or accepting any gift of value from anyone under circumstances from which it could be reasonably inferred that the gift was intended as a reward or for the purpose of influencing any official action on the employee's part;
- relationships between SCDC Employees ( See Section 7 )
- payment beyond reimbursement for expenses for public speaking when such invitation is extended because of the nature of the employee's duties/position with the Agency. (4-ACRS-3A-07, 4-4069)

3.1 In compliance with the South Carolina Rules of Conduct for Public Employees, an employee of the SCDC may not receive anything of value beyond reimbursement for expenses for speaking before a public or private group if the speech is incidental to the employee's duties as a public official, public member, or public employee. However, a meal can be accepted if it is provided in conjunction with the speaking engagement where all participants are entitled to the same meal and the meal is incidental to the speaking engagement.

3.2 An Agency employee may not receive money in addition to that received in his/her official capacity for advice or assistance given in the course of his/her employment as a public official, public member, or public employee.

3.3 Other Activities: The Agency encourages employees to clarify in advance any activity or employment that could be construed as inconsistent or incompatible by the State or the Agency. The following procedures are recommended for clarification/decision:

3.3.1 An employee should submit a written request through his/her immediate supervisor to the Division Director of Human Resources on any activity or employment which s/he feels could be misconstrued as inconsistent or incompatible by the State or the Agency.

3.3.2 The Division Director of Human Resources may require an opinion from the Agency's Office of General Counsel and/or the South Carolina Ethics Commission.

3.3.3 After a decision is made and documented, the Division Director of Human Resources will notify the employee in writing through his/her immediate supervisor.

3.3.4 If the employee objects to the decision, s/he may appeal through the appropriate supervisory chain or the Agency Director.

3.4 Should an employee be involved in any activity found to be incompatible or inconsistent for which s/he did not follow the above referenced procedures, s/he may be subject to corrective action (up to and including termination) as well as prosecution under federal and/or state law. Any proposed corrective action under these provisions must be justified in writing by the appropriate Warden, Division Director, or member of the Director's Staff and approved through the Division Director of Human Resources or designee. (4-ACRS-3A-07, 4-4069)

#### 4. REPORTING ARREST, RECEIPT OF WARRANT, CONVICTION, DISPOSITION OF ARREST, RESTRAINING ORDERS AND SUSPENSION OF DRIVER'S LICENSE; OR DEFAULT ON STUDENT LOANS:

4.1 All employees are required to report any receipt of arrest warrant/disposition of arrest, restraining orders and conviction/disposition (other than minor traffic violations) and court-issued restraining orders regarding a family member or co-habitant through their immediate supervisor to the appropriate Warden/Division Director and to the Division of Human Resources within five (5) working days of the receipt of arrest warrant and conviction/disposition or of receipt of the restraining order. The arrest and

conviction/disposition and restraining order must be reported on SCDC Form 16-69, "Notification of Arrest/Disposition." A copy of the original warrant, restraining order, or final court disposition **MUST** be attached. The following provisions apply:

4.1.1 Failure to report an arrest and conviction/disposition or restraining order within five (5) working days will result in corrective action up to and including termination, regardless of the severity of the charge and conviction/disposition and/or restraining order.

4.1.2 Restraining orders required to be reported must meet the following three (3) conditions:

- the order must be issued after a hearing of which the person had actual notice and an opportunity to participate;
- the order restrains the person from harassing, stalking, or threatening an intimate partner, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury;
- the order includes a finding that the person represents a credible threat to the physical safety of the partner or by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against the intimate partner that would reasonably be expected to cause bodily harm.

4.1.3 All security and non-security employees may be terminated, as directed by the Division Director of Human Resources, for the following:

- defaulting on the repayment of certain guaranteed government student loans;
- workers compensation cases which prevent the employee from returning to work and performing the essential functions of their positions;
- absences for any employee which causes them to exceed leave requirements of the State of South Carolina;
- indictment of a crime that carries a potential sentence of one year or more;
- conviction of a Felony;
- conviction of a DUI, (i.e., Driving Under the Influence, Driving While Impaired, Driving While Intoxicated, etc.); and
- certain crimes which are serious enough in nature to create a substantial security risk or pose a threat to the Agency or Agency's image; or failure to report arrests and dispositions or restraining orders in a timely manner as required by policy.

4.1.4 In addition, security employees may be terminated by the Division Director of Human Resources if convicted of crimes that would cause their de-certification as a Class I or II Officer for any reason as directed by the State Criminal Justice Academy. In the above listed cases, the termination provisions of Agency Policy/Procedure ADM-11.04, "Employee Corrective Action" are not required.

4.2 Employees who must drive state/SCDC vehicles as part of their job are required to report a suspended or revoked driver's license to the SCDC within five (5) working days of the notification of the suspension or revocation. The employee will provide this information by memo (See Appendix A) to his/her supervisor who will forward it to the Division of Transportation. (4-ACRS-3A-07, 4-4069)

## 5. INCARCERATED RELATIVES:

5.1 Employees must complete SCDC Form 16-90, "Report of Employee and/or Inmate Relative," and submit it to their immediate supervisor if an inmate incarcerated within the SCDC is a current or previous relative of the employee. The supervisor will forward the SCDC Form 16-90 to the appropriate Warden/Division Director, who will send the original to the Division Director of Human Resources. The original will be filed in the employee's personnel folder. A copy will be confidentially maintained by the appropriate personnel specialist. While no action will normally be taken against the employee, security issues may require the movement or restriction of movement of the inmate.

5.2 Any employee requesting to visit an inmate must follow the procedures outlined in SCDC Policy/Procedure OP-22.09, "Inmate Visitation." (4-ACRS-3A-07, 4-4069)

## 6. REPORTING INCIDENTS OF SEXUAL CONDUCT, SEXUAL ABUSE, OR SEXUAL HARASSMENT BETWEEN EMPLOYEES AND INMATES:

6.1 The South Carolina Department of Corrections is committed to protecting the public by operating a safe, secure, humane, and efficient state prison system in accordance with statutory and constitutional mandates. In order to meet this mission, the public must have confidence that all incidents of sexual conduct, sexual abuse, or sexual harassment are properly reported, immediately and thoroughly investigated, and that each incident is resolved with an appropriate response. Unless the disclosure is otherwise protected by law, as soon as an incident of sexual conduct, sexual abuse, or sexual harassment performed by an employee(s) with or to an SCDC inmate(s) comes to the attention of an employee (this includes rumors and "inmate talk," and all kissing even though such kissing may not amount to sexual contact, sexual abuse, or sexual harassment), the employee who receives the information will immediately inform the Warden, or other appropriate SCDC official or supervisor verbally and follow-up with a written report using SCDC Form 19-29A, and if necessary, SCDC Form 19-29B.

6.2 Failure to report such information may result in corrective action up to and including termination from employment with this agency. During the course of an official investigation, employees are to cooperate fully by providing all pertinent information that they may have. Full cooperation requires truthfully responding to all questions and providing a signed statement or affidavit, if necessary. (See SCDC Policy/Procedure ADM-11.04, "Employee Corrective Action," for additional information.) All such cases will be investigated and when required, referred to the appropriate law enforcement agency and/or solicitor's office. (4-ACRS-7E-04, 4-4056)

7. RELATIONSHIPS BETWEEN SCDC EMPLOYEES: Romantic relationships between employees at the same institution are prohibited. Employees who are not assigned to an institution are prohibited from having a romantic relationship with any SCDC employee. Existing marriages of public record, or common law marriages, which are documented in SCDC official Personnel records prior to the date of this policy change, will be grandfathered. When an employee is suspected of committing a rules infraction(s) of this nature, he/she will be charged with 020, "Unprofessional Conduct, Incompatible Activities, Malicious Profanity,

Unethical Conduct, or Other Employee Behavior Having Potential or Actual Detriment to the Agency or State Operations of Their Image" (conduct can occur on/off the job), pursuant to Agency Policy/Procedure ADM-11.04, "Employee Corrective Action." The appropriate corrective action(s) will be determined after the particular circumstances of the case have been considered.

7.1 As these relationships are detrimental to the organization and our mission, the practical reality is that the only effective remedy in most cases will be termination of one of the employees involved in an inappropriate romantic relationship.

7.2 While this policy still allows limited romantic involvement between SCDC employees, the better practice is to avoid romantic relationships within our ranks. Even relationships that are allowed under this policy can limit opportunities for promotions, transfer, and job assignments, as such decisions cannot result in a violation of this policy.

7.3 No employee will participate in an employment decision, (e.g. hiring, termination, corrective action, promotion, EPMS planning stage or evaluation, etc.), involving an applicant or employee with whom there exists a personal or romantic relationship.

7.4 Employees hired prior to the revision to this policy on April 15, 2008 that were in a relationship considered grandfathered should not be denied a promotional opportunity within the agency as long as the position does not allow the individual to fall within the same chain of command of the person with whom they have a relationship. For any employee hired April 15, 2008 and after, the policy clearly indicates that an employee cannot have a romantic relationship with an employee at the same institution and an employee who is not assigned to an institution cannot have a relationship with any SCDC employee.

## 8. DEFINITIONS:

Arrest/Conviction/Disposition/Suspension refers to any charge other than minor traffic violations and/or suspension of the individuals' driver's license. A charge must be reported, regardless of the type of offense, whether or not a warrant was issued; the employee was fingerprinted; the charges were dropped, not processed, dismissed, resulted in probation, plea bargained, reduced, or changed; or the individual was found guilty or not guilty. These include, but are not limited to: crimes of moral turpitude (fraudulent check, shoplifting, any illegal drug charge, misdemeanor crimes, etc.); misdemeanor crimes of domestic violence (simple assault or other types of assault on family members or co-habitants); restraining orders (court-issued restraining orders regarding a family member or co-habitant); DUI - driving under the influence of alcohol or drugs; leaving the scene of an accident; any felony; any other type of misdemeanor or felony conviction; and suspended or revoked driver's license (for employees required to drive state/SCDC vehicles). See SCDC Policy/Procedure OP-20.02, "Transportation Management," for additional reporting for accidents/tickets while driving a state/SCDC vehicle.(4-ACRS-3A-07, 4-4069)

Employee refers to any full-time, part-time, or contract services employee; or any other individual regularly working in the SCDC.



Five Working Days refers to five (5) workdays based on the employee's work schedule, regardless of the number of hours in the workday.

Immediate Family Member refers to the wife, husband, mother, father, brother, sister, daughter, son, mother-in-law, father-in-law, daughter-in-law, son-in-law, grandmother, grandfather, granddaughter, or grandson; and, for purposes of this policy/procedure, includes a member of the individual's immediate family defined as follows: a child residing in an immediate family member's household; spouse of an immediate family member; or an individual claimed by the employee or applicant or his/her spouse as a dependent for income tax purposes (e.g., step-children claimed as dependents).

Incarcerated Relative refers to an inmate who is related to either the employee or the employee's current or previous spouse. (4-ACRS-3A-07, 4-4069)

—  
s/Jon E. Ozmint, Director

ORIGINAL SIGNED COPY MAINTAINED IN THE DIVISION OF POLICY DEVELOPMENT.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

MEMORANDUM

THROUGH: \_\_\_\_\_

TO: Division Director, Transportation

FROM: \_\_\_\_\_

SUBJECT: NOTIFICATION OF SUSPENDED/REVOKED  
DRIVER'S LICENSE OR MOVING VIOLATION

DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

-

Section I: (to be completed by employee)

Name of Employee: \_\_\_\_\_

Social Security #: \_\_\_\_-\_\_\_\_-\_\_\_\_ Date of Birth: \_\_\_\_/\_\_\_\_/\_\_\_\_

Position: \_\_\_\_\_ Location: \_\_\_\_\_

Driver's License #: \_\_\_\_\_ State of Driver's License: \_\_\_\_\_

\*\* Date Driver's License Suspended/Revoked: \_\_\_\_/\_\_\_\_/\_\_\_\_

\*\*\* Date of Moving Violation while driving a State/SCDC Vehicle: \_\_\_\_/\_\_\_\_/\_\_\_\_

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Section II: (to be completed by Division of Transportation)

Date Notification Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

Action Taken: \_\_\_\_\_

\_\_\_\_\_

\*\*Suspension/revocation must be reported within five (5) working days.

\*\*\* An employee receiving a citation for a moving violation will be held personally liable for the payment of any fines incurred upon him/her. The South Carolina Department of Corrections will not be held responsible for payment of any such fines.